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Paper No. 16

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2005 MARKET STREET, SUITE 2200
PHILADELPHIA, PA 19103-7013

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OFFICE OF PETITIONS

In re Application of
Gallagher, et al.
Application No. 09/428,033
Filed: October 27, 1999
Atty. Dkt. No.: 9870-15US
Title: ANTICOLLISION PROTOCOL
WITH FAST READ REQUEST AND
ADDITIONAL SCHEMES FOR READING
MULTIPLE TRANSPONDERS IN AN
RFID SYSTEM

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: DECISION REFUSING
: STATUS UNDER 37 CFR
: 1.47(a)
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This is in response to the petition under 37 CFR 1.47(a),
filed March 3, 2000 and received by the Office of Petitions
September 17, 2003.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date
of this decision to reply, correcting the below-noted
deficiencies. Any reply should be entitled "Request for
Reconsideration of Petition Under 37 CFR 1.47(a)," and should
only address the deficiencies noted below, except that the
reply may include an oath or declaration executed by the non-
signing inventor. Failure to respond will result in
abandonment of the application. Any extensions of time will
be governed by 37 CFR 1.136(a).

The above-identified application was filed October 27, 1999
without a fully executed oath or declaration. Accordingly, on
November 26, 1999, a Notice to File Missing Parts of
Nonprovisional Application ("Notice") was mailed, requiring
an executed oath or declaration and surcharge.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof
that the non-signing inventor cannot be reached or refuses to
sign the oath or declaration after having been presented with
the application papers (specification, claims and drawings);
(2) an acceptable oath or declaration in compliance with 35
U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a
statement of the last known address of the non-signing
inventor.

The instant petition lacks requirements (1) and (2) set forth
above.

As to item (1), petitioner has failed to sufficiently
establish that despite diligent effort, Riccardo Benedetti
cannot be reached or located. Petitioner indicates that the
application papers were sent to the non-signing inventor at
the non-signing inventor's last known address in the United
States and that the package containing the application papers

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was returned. Petitioner further indicates that the application papers were sent to a Swiss address via courier service and that the package containing the application papers was signed for by one other than the inventor.

Petitioner has failed to establish that any efforts were thereafter made to locate the non-signing inventor.

Where inability to reach or locate the legal representative of a deceased inventor is alleged, petitioner is required to establish that diligent effort was made to locate the non-signing inventor, and provide the non-signing inventor with a complete copy of the patent application (specification, including claims, drawings, and oath or declaration).

Any renewed petition must be supported by evidence which sufficiently establishes that despite diligent effort, the non-signing inventor cannot be located. A statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made to locate the non-signing inventor. The statement of facts must be signed, where at all possible, by a person having *firsthand knowledge* of the facts recited therein. Statements based on hearsay, will not normally be accepted. Petitioner should reference and supply evidence of any such searches in a renewed petition. See, MPEP 409.03(d).

Moreover, while the petition alleges the non-signing inventor cannot be located, a cursory review of the Lexis®.com EZFIND Combined Person Locator Nationwide database indicates Riccardo Benedetti, formerly of Voorhees, New Jersey has more recently resided at the following address: **44 Treaty Elm Lane #10INUI, Haddonfield, New Jersey 08033-3414.**

Further correspondence with respect to this matter should be addressed as follows:

By mail:

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile:

(703) 308-6916

By hand:

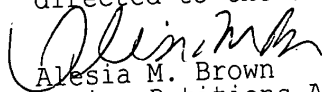
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Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0310.



Alesia M. Brown
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Office of Petitions